

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH  
BENEFITS FUND, PIRELLI ARMSTRONG  
RETIREE MEDICAL BENEFITS TRUST,  
TEAMSTERS HEALTH & WELFARE FUND  
OF PHILADELPHIA AND VICINITY, and  
PHILADELPHIA FEDERATION OF  
TEACHERS HEALTH AND WELFARE FUND,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri  
corporation, and MCKESSON CORPORATION,  
a Delaware corporation,

Defendants.

Case No. 1:05-CV-11148-PBS

**DECLARATION OF LORI A. SCHECHTER IN SUPPORT OF DEFENDANT MCKESSON  
CORPORATION'S EMERGENCY MOTION TO SUBSTITUTE REDACTED COPIES OF  
TWO EXHIBITS ATTACHED TO THE DECLARATION OF STEVE W. BERMAN FILED  
ON JULY 21, 2006**

I, Lori A. Schechter, declare as follows:

1. I am a partner at the law firm of Morrison & Foerster LLP and one of the attorneys of record for McKesson Corporation ("McKesson") in this action. I submit this declaration in support of McKesson's Emergency Motion to Substitute Redacted Copies of Two Exhibits Attached to the Declaration of Steve W. Berman Filed on July 21, 2006.

2. On July 25, 2006, I sent a letter via email to plaintiffs' counsel, Steve Berman, alerting him to the plaintiffs' improper public filing of confidential and highly confidential McKesson documents in exhibits attached to his declaration filed on July 21, 2006. I also requested that he file a corrected declaration and replace Exhibits 12 and 39 of his declaration with the redacted versions attached to my letter. A true and correct copy of that letter is attached hereto as Exhibit 1.

3. On July 26, 2006, plaintiffs informed me that they would not agree to replace Exhibits 12 and 39 with redacted copies. A true and correct copy of the letter from S. Berman to L. Schechter, dated July 26, 2006, is attached hereto as Exhibit 2.

4. Attached hereto as Exhibit 3 are proposed redacted versions of Exhibits 12 and 39 to the Berman Declaration to remove commercially sensitive pricing and profitability information. The redacted documents in Exhibit 3 are the documents McKesson seeks to substitute for Exhibits 12 and 39 of the Berman Declaration currently on file with the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 27th day of July, 2006, in San Francisco, California.

By:

/s/ Lori A. Schechter  
Lori A. Schechter

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on July 27, 2006.

/s/ Lori A. Schechter  
Lori A. Schechter

# **Exhibit 1**

**MORRISON | FOERSTER**

425 MARKET STREET  
SAN FRANCISCO  
CALIFORNIA 94105-2482  
  
TELEPHONE: 415.268.7000  
FACSIMILE: 415.268.7522  
  
WWW.MOFO.COM

MORRISON & FOERSTER LLP  
NEW YORK, SAN FRANCISCO,  
LOS ANGELES, PALO ALTO,  
SAN DIEGO, WASHINGTON, D.C.  
  
DENVER, NORTHERN VIRGINIA,  
ORANGE COUNTY, SACRAMENTO,  
WALNUT CREEK, CENTURY CITY  
  
TOKYO, LONDON, BEIJING,  
SHANGHAI, HONG KONG,  
SINGAPORE, BRUSSELS

July 25, 2006

Writer's Direct Contact  
415.268.6355  
LSchechter@mofo.com

*By E-Mail*

Steve W. Berman  
Hagens Berman Sobol & Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101

Re: *New England Carpenters Health Benefit Fund, et al. v. First DataBank, et al.*,  
No. 1:05-CV-11148-PBS

Dear Steve:

We received notice that on July 21, 2006, you filed unredacted versions of the documents related to plaintiffs' motion for class certification and motion for leave to amend, including unredacted copies of the Berman declaration and exhibits. These filings quote from or attach documents that McKesson designated as "confidential" or "highly confidential" under the protective order in this case. Paragraph 14 of the protective order requires that documents containing material designated as "confidential" or "highly confidential" be filed under seal. Your submission of these materials as part of the public record violates the protective order.

The fact that Judge Saris denied plaintiffs' motion to file under seal does not excuse plaintiffs from complying with the protective order. Plaintiffs cannot use Judge Saris' order as cover.

As I have previously advised you, we are willing to meet and confer regarding any confidentiality designations that plaintiffs believe are inappropriate, as required by the protective order. Given the urgency of the present situation, we will agree to lift the confidentiality designations of the documents attached to your declaration *except* for Exhibits 12 and 39, which contain highly confidential, recent pricing and business information. Specifically, we request that you submit a corrected declaration with redactions of the sensitive information included in these exhibits.

I have enclosed proposed, redacted exhibits to replace the unredacted Exhibits 12 and 39 currently attached to your declaration. Your briefs do not cite to those portions for which we seek redaction. The public's access to this information, however, severely prejudices

Steve W. Berman  
July 25, 2006  
Page Two

McKesson's legitimate business interests. Please let us know immediately whether you will submit a corrected declaration with the enclosed, redacted exhibits.

Any future effort by plaintiffs to unilaterally lift confidentiality designations without following the protective order's process for revising such designations warrants sanctions. We propose that the parties discuss further procedures for handling confidential information filed with the court to avoid any other improper filings of confidential information in the public record.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Schechter", written in a cursive style.

Lori A. Schechter

Enclosure

cc: Joan Griffin

**Exhibit 12 to Declaration of Steve Berman in Support  
of Plaintiffs' Motion for Class Certification and  
Motion for Leave to File First Amended Complaint**

---

**From:** Ferreira, Brian  
**Sent:** Wednesday, December 08, 2004 11:29 AM  
**To:** Cardenas, Debbie  
**Cc:** Puccetti, Joy; Pasquale, Pete; James, Robert; Hilliard, Andy  
**Subject:** RE: Net Brand RX Exception for Econo# 1220524

Thanks for the quick response. Have a great holiday season !

Brian

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, December 08, 2004 2:28 PM  
**To:** Ferreira, Brian  
**Cc:** Puccetti, Joy; Pasquale, Pete; James, Robert; Hilliard, Andy  
**Subject:** RE: Net Brand RX Exception for Econo# 1220524

Thanks Brian, I am not involved if the item is not a Brand RX net priced slow mover. I did not have a chance to look it up and just assumed since it was sent to me.

Please carry on with your conversation with Bob James to resolve this situation.

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Wednesday, December 08, 2004 11:20 AM  
**To:** Cardenas, Debbie  
**Cc:** Puccetti, Joy; Pasquale, Pete  
**Subject:** Net Brand RX Exception for Econo# 1220524

Deb,

This is the item we're trying to load as a local contract. We were told that it is **not** a Slow Mover and was not part of the Net Billed initiative. Did we misinterpret these messages? I'm leaving the office for an appointment in Philly and I'll try to reach you later this afternoon.

Thanks,  
Brian

-----Original Message-----

**From:** James, Robert  
**Sent:** Tuesday, November 16, 2004 1:59 PM  
**To:** Ferreira, Brian; Yonko, Greg  
**Cc:** Pasquale, Pete; Petrus, Susan  
**Subject:** RE: Tincture of Opium 1220524

This product is sold at list because it is a C2 narcotic, not because its a slow mover. Redacted which may have made sense years ago, but really doesn't today because 99% of our customers get around list only by their buy plans or contracts. All (with few exceptions) brand products are marked up 25% to get suggested sell or list price. The reason is ultimately, this is the markup that creates a 20% spread.....which is the norm for 99% of all brand pharmaceuticals. This also makes our sugg sell and AWP the same number in most cases which makes BIS much more efficient in updating pricing actions.

2/22/2006

MCKAWP 0069766

I don't have a snappy answer for the customer because McKesson has always priced C2's in this manner. Personally, I would support changing all of the C2 pricing to normal pricing, or if we need to have a markup, then just use a <sup>Redacted</sup> markup which essentially creates the old 16 2/3% spread.

This topic is worth more discussion.

Bob James  
Vice President, Brand Rx Product Management  
McKesson  
One Post Street, 20th Floor  
San Francisco, CA. 94104  
Phone 415-983-8755, Fax 415-732-2951  
robert.james@mckesson.com

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Tuesday, November 16, 2004 10:22 AM  
**To:** Yonko, Greg; James, Robert  
**Cc:** Pasquale, Pete; Petrus, Susan  
**Subject:** FW: Tincture of Opium 1220524

Greg and Bob,  
I know that you had forwarded this info for resolution last week. We need to respond to the customer and the group. How do we proceed from here?

-----Original Message-----

**From:** Petrus, Susan  
**Sent:** Tuesday, November 09, 2004 9:08 PM  
**To:** Ferreira, Brian; Thomas, Erlinda; Hilliard, Andy  
**Cc:** Morrissey, Dave; Pasquale, Pete  
**Subject:** RE: Tincture of Opium 1220524

Erlinda and Andy,  
Maybe I am missing something here, but if it does not qualify as a slow mover, net bill based on the agreed upon the criteria that we just established, why is it being billed at a 25% mark up? When establishing this mark up, did we take into consideration our contractual commitments? How was this price change communicated to the field? How should it be explained to customers? Having just gone thru the Phase 2 slow moving, net bill process, I want to make sure our field and customers have a comfort level that we are playing by the rules that we established for slow movers and in the terms of our agreements overall. Perhaps it is just my lack of understanding of how we have historically priced products in the ISMC segment, but would like to better understand this. Thanks. Susan

Susan E. Petrus  
VP, National Accounts  
McKesson- Pharmaceutical  
Office #: 636-938-7052  
Fax #: 636-938-4680

-----Original Message-----

**From:** Ferreira, Brian [mailto:Brian.Ferreira@McKesson.com]  
**Sent:** Tuesday, November 09, 2004 4:33 PM  
**To:** Thomas, Erlinda; Hilliard, Andy; Petrus, Susan  
**Cc:** Morrissey, Dave; Pasquale, Pete  
**Subject:** RE: Tincture of Opium 1220524

Thanks for the follow up. The issue we'll need to address in the field is how we handle an item where the pharmacy loses >\$30 each time they fill a third-party prescription for this slow moving item.

2/22/2006

MCKAWP 0069767

-----Original Message-----

**From:** Thomas, Erlinda  
**Sent:** Tuesday, November 09, 2004 11:43 AM  
**To:** Hilliard, Andy; 'Petrus, Susan'; Ferreira, Brian  
**Cc:** Morrissey, Dave  
**Subject:** RE: Tincture of Opium 1220524

All,

Andy is right. This item is not part of the slow mover initiative. This item used to be generic and now branded. The branded product manager instructed us BIS to change the code and to change the mark up to 25%.

Thanks,

Erlinda L. Thomas  
 McKesson Corp.  
 Manager Business Information Services  
 Tel# 415 983 8524  
 Fax# 415 983 9082  
 erlinda.thomas@mckesson.com

-----Original Message-----

**From:** Hilliard, Andy  
**Sent:** Sunday, November 07, 2004 12:43 PM  
**To:** 'Petrus, Susan'; Ferreira, Brian  
**Cc:** Morrissey, Dave; Thomas, Erlinda  
**Subject:** RE: Tincture of Opium 1220524

Brian, the item used to be Generic, but as of 10/9 is classified as a Brand. It is not part of any slow-mover initiative.

**BB\_LOOKUP\_ITEM\_HIST\_SLA**

EM_ITEM_NUM	SELL_DSCR	GNRC_IND	EFF_DT	CURR_IND
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	1/1/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	2/1/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/8/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/9/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/28/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	12/27/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	2/1/2003	N
1220524	OPIUM DEOD TINCT 66 473ML	N	10/9/2004	Y

While it was Generic, it was net-billed at Redacted When it was converted over, it was net-billed at Redacted until Nov. 4th. This may have been an error, or intentional...we'd need to ask BIS to research it. Erlinda, can you have someone look into this item and see why it was priced at Redacted

It is currently not net-billed, but priced like a standard Brand item.

**BB\_LOOKUP\_ITEM\_PRICE\_HIST**

--	--	--	--	--

2/22/2006

MCKAWP 0069768

EM_ITEM_NUM	FRST_EFF_DT	IW_STAT_CD	LIST_ONLY_CD	LST_LESS_MKUP_PC
1220524	11/1/1998	H	1	0.
1220524	7/1/1999	H	1	0.
1220524	5/19/2000	H	1	0.
1220524	6/1/2000	H	1	0.
1220524	6/24/2000	H	1	0.
1220524	2/12/2002	H	1	0.
1220524	2/13/2002	H	1	0.
1220524	2/4/2003	H	1	0.
1220524	1/6/2004	H	1	0.08
1220524	10/9/2004	H	1	0.
1220524	11/4/2004	C	1	0.

-A

**Andy Hilliard**  
**415-983-9419**

-----Original Message-----

**From:** Petrus, Susan [mailto:Susan.Petrus@McKesson.com]  
**Sent:** Sunday, November 07, 2004 9:57 AM  
**To:** Ferreira, Brian; Hilliard, Andy  
**Cc:** Morrissey, Dave  
**Subject:** RE: Tincture of Opium 1220524

Brian,

I do not see it on the net bill, slow mover list. FYI. Web site is still up, so if it would be helpful you can pull down the entire list of slow movers from the site. Susan

Andy,

Can you double check me. If it is now a net bill, slow mover any idea what caused the price change? Thanks. Susan

Susan E. Petrus  
 VP, National Accounts  
 McKesson- Pharmaceutical  
 Office #: 636-938-7052  
 Fax #: 636-938-4680

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Sunday, November 07, 2004 10:21 AM  
**To:** Petrus, Susan  
**Cc:** Morrissey, Dave  
**Subject:** FW: Tincture of Opium 1220524  
**Importance:** High

Susan,

Is this item part of a Net Billed Initiative?

-----Original Message-----

**From:** Ferreira, Brian

2/22/2006

MCKAWP 0069769

**Sent:** Friday, November 05, 2004 10:58 AM  
**To:** Hilliard, Andy  
**Cc:** Pierce, Richard  
**Subject:** Tincture of Opium 1220524  
**Importance:** High

Andy,  
Redacted

*Brian Ferreira*  
*VP Sales*  
*McKesson*  
*400 Delran Pkwy*  
*Delran, NJ 08075*  
*(856)255-2163*

2/22/2006

MCKAWP 0069770

**Exhibit 39 to Declaration of Steve Berman in Support  
of Plaintiffs' Motion for Class Certification and  
Motion for Leave to File First Amended Complaint**

---

**From:** Cardenas, Debbie  
**Sent:** Wednesday, August 04, 2004 2:43 PM  
**To:** James, Robert  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

I agree that the current process is to look at the overall bid, however, I think it is proving to be a dangerous one that needs revisiting.

Case in point is one in Non RX. Our segment is bundled, and no one watches the mix, which is why we are selling to the hospital group Redacted

-----Original Message-----

**From:** James, Robert  
**Sent:** Wednesday, August 04, 2004 2:09 PM  
**To:** Cardenas, Debbie  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

It occurred to me after our discussion with Greg about the profitability on JOM, that this is most likely the case with all of our large suppliers that have profitability less than 120 bps (just a guess, it could be higher) and that our pricing group probably looks at the overall figures when giving a bid. However, the Omnicare business may be heavily weighted with several of these unprofitable scenarios.....just a thought.

Bob James

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, August 04, 2004 10:24 AM  
**To:** Yonko, Greg; Miller, Mark (CAR); James, Robert  
**Cc:** Felton, Jeff; Petrus, Susan; Bolger, Phil  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

Per our conversation, attached is the DRAFT letter that Neal's group crafted. It is designed to be a suggestion to Omnicare on how they can support McKesson in our efforts with JOM.

Phil is meeting with Tim Bien this afternoon and will advise of his conversation. One of the things he asked is the level we can share our financial situation with JOM. Since Greg has advised that we have confidentiality issues with JOM - the sharing will have to be at a high level. Bob or Greg will be available to talk with Omnicare on this if needed.

<< File: JOM Omnicare Letter1.doc >>

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, July 28, 2004 4:37 PM  
**To:** James, Robert; Stubbs, Andrew; Boyd, Beth; Hanks, Jason; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan; 'Torres, Martha'  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

Redacted

With that said - here is a \$ comparison of profit for Omnicare (assuming an AWP-15) compared to

McKesson's. Just for kicks, I assumed a 70% gross margin for JOM and calculated their Omnicare profit also.

**Omnicare total JOM**

Redacted

**McKesson total JOM**

Redacted

**JOM Omnicare**

Redacted

Redacted

-----Original Message-----

**From:** James, Robert  
**Sent:** Wednesday, July 28, 2004 2:19 PM  
**To:** Stubbs, Andrew; Boyd, Beth; Hanks, Jason; Cardenas, Debbie; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan; Torres, Martha  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

Please see below for the workup of what the impact has been for Omnicare on JOM products relative to the change in AWP spread. Three years ago J & J products were all 16 2/3% AWP spread products. Today, almost all of them are 20% spread. Procrit just changed last month.

Just for this example we'll roll up these figures to WAC (amounts given divided by .982) and look at profitability assuming all third party Rx's based on AWP minus 15% (any additional fee would remain constant so we won't use a fee in this example because we don't have the number of transactions).

Redacted

Redacted

or 3 times the profit as before

Redacted

or more than 3 times the profit as before.

We're a nice advocate to have around. This example is just to provide background to our team so everyone realizes the impact of increasing AWP's.....Not by McKesson, but by the FDB process.

Call me if you questions.

Bob James  
Vice President, Brand Rx Product Management  
McKesson  
One Post Street, 20th Floor  
San Francisco, CA. 94104  
Phone 415-983-8755, Fax 415-732-2951  
robert.james@mckesson.com

-----Original Message-----

**From:** Stubbs, Andrew  
**Sent:** Wednesday, July 28, 2004 12:20 PM  
**To:** Boyd, Beth; Hanks, Jason; Cardenas, Debbie; James, Robert; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

All- Here's a summary of the JOM Sales, Procrit Sales, and Remicade Sales for all of Omnicare for April 04 through June 04.

Jason- just a reminder.... Redacted

Redacted

I have all the detail in a massive 22mb file, but I'm not sending that to everybody (just Jason). If you do need that file, please let me know and I'll send it separately.

Thanks,

**Andrew Stubbs**  
Account Coordinator

1220 Senlac Dr.  
Carrollton, Tx 75006  
Ph# 972-446-4558  
Fax# 972-446-5337

-----Original Message-----

**From:** Boyd, Beth  
**Sent:** Tuesday, July 27, 2004 4:30 PM  
**To:** Stubbs, Andrew  
**Subject:** FW: JOM - Omnicare positioning for support

My report is still running. I probably have way too much data coming back. Can you put this on your list of to do's for tomorrow?

Thank you,  
Beth Boyd-Kolb  
McKesson  
Support Services  
HS Account Manager  
1220 Senlac Dr.  
Carrollton, TX 75006  
972-446-4960 (phone)  
972-446-5337 (fax)

-----Original Message-----

**From:** Bolger, Phil  
**Sent:** Tuesday, July 27, 2004 2:07 PM  
**To:** Boyd, Beth; Hanks, Jason; Cardenas, Debbie; James, Robert  
**Cc:** Felton, Jeff; Petrus, Susan  
**Subject:** JOM - Omnicare positioning for support

Beth and Jason,

Susan, Deb, Bob, and I just completed our teleconference to prepare for a meeting with Omnicare on 8/4 and soliciting their support in our difficult negotiations with JOM. In that regard, we need your assistance as follows...

- **Beth**, please email to Bob James the 1Q/FY05 annualized volume for all of Omnicare we do with 1) JOM total, and 2) Procrit product line.
- **Robert**, you will then complete a value analysis specific to Omnicare relative to our "customer advocacy" on their behalf on improving the discount to AWP with First Data Bank for JOM overall a couple of years ago and Procrit specifically most recently.
- **Deb will work with Greg** to develop a draft communication from the customer's point of view. I will share with Tim Bien to see if he is willing to use as a communication document under his name to JOM encouraging their support for improving the overall supply chain economics with McKesson.
- **Jason**, take a look at the basic economics below and update for me to insure they are as

accurate and comprehensive as possible. I will plan to utilize in explaining to Tim Bien why we remain "under wated" financially for every JOM transaction with Omnicare.

Redacted

Thanks everyone for your help positioning this issue with Omnicare. Hopefully, we can gain their support in their dialog with JOM.

Regards,

Philip Bolger  
Vice President - National Accounts  
McKesson Health Systems  
email: phil.bolger@mckesson.com  
office: 515-223-0781  
cell: 515-306-6886

*Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.*

# **Exhibit 2**

STEVE W. BERMAN  
DIRECT • (206) 224-9320  
STEVE@HBSSLAW.COM



July 26, 2006

**Via E-Mail**

Ms. Lori A. Schechter  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105-2482

Re: *New England Carpenters Health Benefit Fund, et al. v. First Databank, et al.*, No. 1:05-cv-11148- PBS

Dear Lori:

In the course of preparing the amended complaint we utilized documents that McKesson marked "Confidential" or "Highly Confidential." Such designations violated Section 13 of the Protective Order as they could not reflect a good faith determination that this material was confidential or highly confidential.

Nonetheless, pursuant to the protective order plaintiffs attempted to file these pleadings under seal. Judge Saris found no "just cause" to do so, hence we believe plaintiffs were obligated to file without the seal.

Perhaps Judge Saris would have found "cause" if you had properly designated documents instead of using the designation in an overbroad fashion.

Thus we did not use the Court's order to avoid the Protective Order as you assert.

Ms. Lori A. Schechter  
July 26, 2006  
Page 2

As to the two exhibits you now mention we await your showing of just cause, at the moment it is lacking in our view.

Sincerely,

HAGENS BERMAN SOBOL SHAPIRO LLP

*[sent via electronic delivery]*

Steve W. Berman

cc: FDB Counsel

## **Exhibit 3**

**Exhibit 12 to Declaration of Steve W. Berman in Support of  
Plaintiffs' Motion for Class Certification and  
Motion for Leave to File First Amended Complaint**

---

**From:** Ferreira, Brian  
**Sent:** Wednesday, December 08, 2004 11:29 AM  
**To:** Cardenas, Debbie  
**Cc:** Puccetti, Joy; Pasquale, Pete; James, Robert; Hilliard, Andy  
**Subject:** RE: Net Brand RX Exception for Econo# 1220524

Thanks for the quick response. Have a great holiday season !

Brian

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, December 08, 2004 2:28 PM  
**To:** Ferreira, Brian  
**Cc:** Puccetti, Joy; Pasquale, Pete; James, Robert; Hilliard, Andy  
**Subject:** RE: Net Brand RX Exception for Econo# 1220524

Thanks Brian, I am not involved if the item is not a Brand RX net priced slow mover. I did not have a chance to look it up and just assumed since it was sent to me.

Please carry on with your conversation with Bob James to resolve this situation.

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Wednesday, December 08, 2004 11:20 AM  
**To:** Cardenas, Debbie  
**Cc:** Puccetti, Joy; Pasquale, Pete  
**Subject:** Net Brand RX Exception for Econo# 1220524

Deb,

This is the item we're trying to load as a local contract. We were told that it is **not** a Slow Mover and was not part of the Net Billed initiative. Did we misinterpret these messages? I'm leaving the office for an appointment in Philly and I'll try to reach you later this afternoon.

Thanks,  
Brian

-----Original Message-----

**From:** James, Robert  
**Sent:** Tuesday, November 16, 2004 1:59 PM  
**To:** Ferreira, Brian; Yonko, Greg  
**Cc:** Pasquale, Pete; Petrus, Susan  
**Subject:** RE: Tincture of Opium 1220524

This product is sold at list because it is a C2 narcotic, not because its a slow mover. Redacted which may have made sense years ago, but really doesn't today because 99% of our customers get around list only by their buy plans or contracts. All (with few exceptions) brand products are marked up 25% to get suggested sell or list price. The reason is ultimately, this is the markup that creates a 20% spread.....which is the norm for 99% of all brand pharmaceuticals. This also makes our sugg sell and AWP the same number in most cases which makes BIS much more efficient in updating pricing actions.

2/22/2006

MCKAWP 0069766

I don't have a snappy answer for the customer because Redacted

This topic is worth more discussion.

Bob James  
Vice President, Brand Rx Product Management  
McKesson  
One Post Street, 20th Floor  
San Francisco, CA. 94104  
Phone 415-983-8755, Fax 415-732-2951  
robert.james@mckesson.com

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Tuesday, November 16, 2004 10:22 AM  
**To:** Yonko, Greg; James, Robert  
**Cc:** Pasquale, Pete; Petrus, Susan  
**Subject:** FW: Tincture of Opium 1220524

Greg and Bob,

I know that you had forwarded this info for resolution last week. We need to respond to the customer and the group. How do we proceed from here?

-----Original Message-----

**From:** Petrus, Susan  
**Sent:** Tuesday, November 09, 2004 9:08 PM  
**To:** Ferreira, Brian; Thomas, Erlinda; Hilliard, Andy  
**Cc:** Morrissey, Dave; Pasquale, Pete  
**Subject:** RE: Tincture of Opium 1220524

Erlinda and Andy,

Redacted

Susan E. Petrus  
VP, National Accounts  
McKesson- Pharmaceutical  
Office #: 636-938-7052  
Fax #: 636-938-4680

-----Original Message-----

**From:** Ferreira, Brian [mailto:Brian.Ferreira@McKesson.com]  
**Sent:** Tuesday, November 09, 2004 4:33 PM  
**To:** Thomas, Erlinda; Hilliard, Andy; Petrus, Susan  
**Cc:** Morrissey, Dave; Pasquale, Pete  
**Subject:** RE: Tincture of Opium 1220524

Thanks for the follow up. The issue we'll need to address in the field is how we handle an item where the pharmacy loses >\$30 each time they fill a third-party prescription for this slow moving item.

2/22/2006

MCKAWP 0069767

-----Original Message-----

**From:** Thomas, Erlinda  
**Sent:** Tuesday, November 09, 2004 11:43 AM  
**To:** Hilliard, Andy; 'Petrus, Susan'; Ferreira, Brian  
**Cc:** Morrissey, Dave  
**Subject:** RE: Tincture of Opium 1220524

All,

Andy is right. This item is not part of the slow mover initiative. This item used to be generic and now branded. The branded product manager instructed us BIS to change the code and to change the mark up to 25%.

Thanks,

Erlinda L. Thomas  
 McKesson Corp.  
 Manager Business Information Services  
 Tel# 415 983 8524  
 Fax# 415 983 9082  
 erlinda.thomas@mckesson.com

-----Original Message-----

**From:** Hilliard, Andy  
**Sent:** Sunday, November 07, 2004 12:43 PM  
**To:** 'Petrus, Susan'; Ferreira, Brian  
**Cc:** Morrissey, Dave; Thomas, Erlinda  
**Subject:** RE: Tincture of Opium 1220524

Brian, the item used to be Generic, but as of 10/9 is classified as a Brand. It is not part of any slow-mover initiative.

#### BB\_LOOKUP\_ITEM\_HIST\_SLA

EM_ITEM_NUM	SELL_DSCR	GNRC_IND	EFF_DT	CURR_IND
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	1/1/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	2/1/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/8/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/9/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	11/28/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	12/27/2002	N
1220524	OPIUM DEOD TINCT 66 RAN 473ML	Y	2/1/2003	N
1220524	OPIUM DEOD TINCT 66 473ML	N	10/9/2004	Y

While it was Generic, it was net-billed at Redacted When it was converted over, it was net-billed at Redacted until Nov. 4th. This may have been an error, or intentional...we'd need to ask BIS to research it. Erlinda, can you have someone look into this item and see why it was priced at Redacted

It is currently not net-billed, but priced like a standard Brand item.

#### BB\_LOOKUP\_ITEM\_PRICE\_HIST

--	--	--	--	--

2/22/2006

MCKAWP 0069768

EM_ITEM_NUM	FRST_EFF_DT	IW_STAT_CD	LIST_ONLY_CD	LST_LESS_MKUP_PC
1220524	11/1/1998	H	1	0.
1220524	7/1/1999	H	1	0.
1220524	5/19/2000	H	1	0.
1220524	6/1/2000	H	1	0.
1220524	6/24/2000	H	1	0.
1220524	2/12/2002	H	1	0.
1220524	2/13/2002	H	1	0.
1220524	2/4/2003	H	1	0.
1220524	1/6/2004	H	1	0.08.
1220524	10/9/2004	H	1	0.
1220524	11/4/2004	C	1	0.

-A

**Andy Hilliard**  
**415-983-9419**

-----Original Message-----

**From:** Petrus, Susan [mailto:Susan.Petrus@McKesson.com]  
**Sent:** Sunday, November 07, 2004 9:57 AM  
**To:** Ferreira, Brian; Hilliard, Andy  
**Cc:** Morrissey, Dave  
**Subject:** RE: Tincture of Opium 1220524

Brian,

I do not see it on the net bill, slow mover list. FYI. Web site is still up, so if it would be helpful you can pull down the entire list of slow movers from the site. Susan

Andy,

Can you double check me. If it is now a net bill, slow mover any idea what caused the price change? Thanks. Susan

Susan E. Petrus  
 VP, National Accounts  
 McKesson- Pharmaceutical  
 Office #: 636-938-7052  
 Fax #: 636-938-4680

-----Original Message-----

**From:** Ferreira, Brian  
**Sent:** Sunday, November 07, 2004 10:21 AM  
**To:** Petrus, Susan  
**Cc:** Morrissey, Dave  
**Subject:** FW: Tincture of Opium 1220524  
**Importance:** High

Susan,

Is this item part of a Net Billed Initiative?

-----Original Message-----

**From:** Ferreira, Brian

2/22/2006

MCKAWP 0069769

**Sent:** Friday, November 05, 2004 10:58 AM  
**To:** Hilliard, Andy  
**Cc:** Pierce, Richard  
**Subject:** Tincture of Opium 1220524  
**Importance:** High

Andy,  
Redacted

*Brian Ferreira*  
*VP Sales*  
*McKesson*  
*400 Delran Pkwy*  
*Delran, NJ 08075*  
*(856)255-2163*

2/22/2006

MCKAWP 0069770

**Exhibit 39 to Declaration of Steve W. Berman in Support of  
Plaintiffs' Motion for Class Certification and  
Motion for Leave to File First Amended Complaint**

---

**From:** Cardenas, Debbie  
**Sent:** Wednesday, August 04, 2004 2:43 PM  
**To:** James, Robert  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

I agree that the current process is to look at the overall bid, however, I think it is proving to be a dangerous one that needs revisiting.

Case in point is one in Non RX. Our segment is bundled, and no one watches the mix, which is why we are selling to the hospital group Redacted

-----Original Message-----

**From:** James, Robert  
**Sent:** Wednesday, August 04, 2004 2:09 PM  
**To:** Cardenas, Debbie  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

It occurred to me after our discussion with Greg about the profitability on JOM, that this is most likely the case with all of our large suppliers that have profitability less than 120 bps (just a guess, it could be higher) and that our pricing group probably looks at the overall figures when giving a bid. However, the Omnicare business may be heavily weighted with several of these unprofitable scenarios.....just a thought.

Bob James

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, August 04, 2004 10:24 AM  
**To:** Yonko, Greg; Miller, Mark (CAR); James, Robert  
**Cc:** Felton, Jeff; Petrus, Susan; Bolger, Phil  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary - Update to Greg

Per our conversation, attached is the DRAFT letter that Neal's group crafted. It is designed to be a suggestion to Omnicare on how they can support McKesson in our efforts with JOM.

Phil is meeting with Tim Bien this afternoon and will advise of his conversation. One of the things he asked is the level we can share our financial situation with JOM. Since Greg has advised that we have confidentiality issues with JOM - the sharing will have to be at a high level. Bob or Greg will be available to talk with Omnicare on this if needed.

<< File: JOM Omnicare Letter1.doc >>

-----Original Message-----

**From:** Cardenas, Debbie  
**Sent:** Wednesday, July 28, 2004 4:37 PM  
**To:** James, Robert; Stubbs, Andrew; Boyd, Beth; Hanks, Jason; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan; 'Torres, Martha'  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

Redacted

With that said - here is a \$ comparison of profit for Omnicare (assuming an AWP-15) compared to

McKesson's. Just for kicks, I assumed a 70% gross margin for JOM and calculated their Omnicare profit also.

**Omnicare total JOM**

Redacted

**McKesson total JOM**

Redacted

**JOM Omnicare**

Redacted

Redacted

-----Original Message-----

**From:** James, Robert  
**Sent:** Wednesday, July 28, 2004 2:19 PM  
**To:** Stubbs, Andrew; Boyd, Beth; Hanks, Jason; Cardenas, Debbie; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan; Torres, Martha  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

Please see below for the workup of what the impact has been for Omnicare on JOM products relative to the change in AWP spread. Three years ago J & J products were all 16 2/3% AWP spread products. Today, almost all of them are 20% spread. Procrit just changed last month.

Just for this example we'll roll up these figures to WAC (amounts given divided by .982) and look at profitability assuming all third party Rx's based on AWP minus 15% (any additional fee would remain constant so we won't use a fee in this example because we don't have the number of transactions).

Redacted

Redacted

or 3 times the profit as before

Redacted

or more than 3 times the profit as before.

We're a nice advocate to have around. This example is just to provide background to our team so everyone realizes the impact of increasing AWP's.....Not by McKesson, but by the FDB process.

Call me if you questions.

Bob James  
Vice President, Brand Rx Product Management  
McKesson  
One Post Street, 20th Floor  
San Francisco, CA. 94104  
Phone 415-983-8755, Fax 415-732-2951  
robert.james@mckesson.com

-----Original Message-----

**From:** Stubbs, Andrew  
**Sent:** Wednesday, July 28, 2004 12:20 PM  
**To:** Boyd, Beth; Hanks, Jason; Cardenas, Debbie; James, Robert; Bolger, Phil  
**Cc:** Felton, Jeff; Petrus, Susan  
**Subject:** RE: JOM - Omnicare positioning for support Sales \$ Summary

All- Here's a summary of the JOM Sales, Procrit Sales, and Remicade Sales for all of Omnicare for April 04 through June 04.

Jason- just a reminder.... Redacted

Redacted

I have all the detail in a massive 22mb file, but I'm not sending that to everybody (just Jason). If you do need that file, please let me know and I'll send it separately.

Thanks,

**Andrew Stubbs**  
Account Coordinator

1220 Senlac Dr.  
Carrollton, Tx 75006  
Ph# 972-446-4558  
Fax# 972-446-5337

-----Original Message-----

**From:** Boyd, Beth  
**Sent:** Tuesday, July 27, 2004 4:30 PM  
**To:** Stubbs, Andrew  
**Subject:** FW: JOM - Omnicare positioning for support

My report is still running. I probably have way too much data coming back. Can you put this on your list of to do's for tomorrow?

Thank you,  
Beth Boyd-Kolb  
McKesson  
Support Services  
HS Account Manager  
1220 Senlac Dr.  
Carrollton, TX 75006  
972-446-4960 (phone)  
972-446-5337 (fax)

-----Original Message-----

**From:** Bolger, Phil  
**Sent:** Tuesday, July 27, 2004 2:07 PM  
**To:** Boyd, Beth; Hanks, Jason; Cardenas, Debbie; James, Robert  
**Cc:** Felton, Jeff; Petrus, Susan  
**Subject:** JOM - Omnicare positioning for support

Beth and Jason,

Susan, Deb, Bob, and I just completed our teleconference to prepare for a meeting with Omnicare on 8/4 and soliciting their support in our difficult negotiations with JOM. In that regard, we need your assistance as follows...

- **Beth**, please email to Bob James the 1Q/FY05 annualized volume for all of Omnicare we do with 1) JOM total, and 2) Procrit product line.
- **Robert**, you will then complete a value analysis specific to Omnicare relative to our "customer advocacy" on their behalf on improving the discount to AWP with First Data Bank for JOM overall a couple of years ago and Procrit specifically most recently.
- **Deb will work with Greg** to develop a draft communication from the customer's point of view. I will share with Tim Bien to see if he is willing to use as a communication document under his name to JOM encouraging their support for improving the overall supply chain economics with McKesson.
- **Jason**, take a look at the basic economics below and update for me to insure they are as

accurate and comprehensive as possible. I will plan to utilize in explaining to Tim Bien why we remain "under wated" financially for every JOM transaction with Omnicare.

Redacted

Thanks everyone for your help positioning this issue with Omnicare. Hopefully, we can gain their support in their dialog with JOM.

Regards,

Phillip Bolger  
Vice President - National Accounts  
McKesson Health Systems  
email: phil.bolger@mckesson.com  
office: 515-223-0781  
cell: 515-306-6886

*Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.*